

**Terry Machine Co., A Division of S.P.S. Technologies, Inc. and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO, and Its Local 155, Petitioner.** Case 7-RC-21581

September 30, 2006

ORDER

BY CHAIRMAN BATTISTA AND MEMBERS SCHAUMBER  
AND KIRSANOW

On May 24, 2005, in a refusal-to-bargain case in which the Respondent contested the Union's certification,<sup>1</sup> the Board remanded and reopened the record of this underlying representation case. Following the remand, on December 16, 2005, Hearing Officer Richard A. Yorke issued his second report and recommendations on objections and determinative challenged ballots pursuant to Board remand.

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<sup>1</sup> *Terry Machine Co.*, Case 7-CA-43551 (May 24, 2005) (not reported in Board volumes).

On September 29, 2006, the Board issued its decisions in *Oakwood Healthcare, Inc.*, 348 NLRB No. 37, *Croft Metals, Inc.*, 348 NLRB No. 38, and *Golden Crest Healthcare Center*, 348 NLRB No. 39, in light of the Supreme Court's decision in *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001). *Oakwood Healthcare*, *Croft Metals*, and *Golden Crest* specifically address the meaning of "assign," "responsibly to direct," and "independent judgment," as those terms are used in Section 2(11) of the Act.

The Board has decided to remand this case to the Regional Director for further consideration in light of *Oakwood Healthcare*, *Golden Crest*, and *Croft Metals*, including allowing the parties to file briefs on the issue, and, if warranted, reopening the record to obtain evidence relevant to deciding the case under the *Oakwood Healthcare*, *Croft Metals*, and *Golden Crest* framework.<sup>2</sup>

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<sup>2</sup> In remanding this case, we are not passing on any other issues raised in the exceptions at this time.